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California Integrated Water Quality System (CIWQS 4.4.1) - Build Number: 01.20.2008.08.15.00 Page 2 of 2

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Division of Water Rights

1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300 P.O. Box 2000 ♦ Sacramento, California 95812-2000 Fax: 916.341.5400 ♦ www.waterrights.ca.gov



JUN 3 0 2038

In Reply Refer to: 331:WT:401, A19237, A27468, S10855-S10857

Donald Moss Cinnamon Ranch Hydroelectric 8381 Poppiano Way Sacramento, CA 95829

Dear Mr. Moss:

APPLICATION FOR A 401 WATER QUALITY CERTIFICATION FOR CINNAMON RANCH HYDROELECTRIC FACILITY (FEDERAL ENERGY REGULATORY COMMISSION NUMBER 6885) IN MONO COUNTY

The State Water Resources Control Board (State Water Board), Division of Water Rights (Division) acknowledges the receipt of your April 29, 2008 letter pertaining to the water quality certification requested under the Federal Energy Regulatory Commission (FERC) re-licensing process of the Cinnamon Ranch Hydroelectric Project (Project). Preparation of a water quality certification under section 401 of the Clean Water Act (401 WQC) by the Division cannot proceed without your submittal of an application (enclosed). The 401 WQC application must be completed to satisfy the requirements under section 3856 (Contents of a Complete Application) of the California Code of Regulations (CCR). The Division will not opt to waive its authority for action on an application for a 401 WQC.

Issuance of water quality certification is a discretionary action that requires the State Water Board to comply with the California Environmental Quality Act (CEQA). A complete application for water quality certification must include a description of any steps that have been, or will be taken to avoid, minimize, or compensate for loss of significant adverse impacts to beneficial uses of water. We may request additional information to clarify, amplify, correct, or otherwise supplement the contents of the application. (Cal. Code Regs., tit. 23, § 3856). Supplemental information may include evidence of compliance with the water quality control plant. (Cal. Code Regs., tit. 23, § 3836(a).)

A review of the Division's database indicates power generation by the Project is authorized under Water Right License 8104 (Application 19237) and Permit 19110 (Application 27468). Full beneficial water use under Permit 19110 was to have been completed by December 31, 2004. Claims of water rights with power usage under Statements of Water Diversion and Use (Statement) Numbers 10855, 10856 and 10857 have also been filed. Electric power generated under a riparian and/or other right requires Division certification of the rights. (California Public Utilities Code, § 2821(d)(1)(B).) The Division's records also indicate that the Project is owned by Mr. Richard Moss (Owner). It is unclear which water right held by the Owner is covered under the FERC license.

California Environmental Protection Agency

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The Division's files also indicate that the last annual reports submitted by the Owner are as follows: 1984 for License 8104, 1986 for Permit 19110, and 1990 for the three Statements. The conditions of the State issued license and permit require the submittal of annual reports, and the submittal of Supplemental Statements is a statutory requirement (California Water Code, § 5104). In addition, pre-1914 and post-1914 appropriative rights can be lost with five consecutive years of non-use of water. The Owner has not documented his water usage with the Division under his State issued water rights and the rights claimed under the Statements for over 17 years.

Finally, the Division's records indicate that the owner has not made full payment for the FERC annual fees and has not made payment for the annual water right fees for fiscal year 2007/2008. In order for Division staff to process a 401 WQC, the appropriate filing fee must accompany the application. The application fee for a 401 WQC is \$1,000 plus \$0.13 per kilowatt. The Project generates 150 kilowatts, so the application fee would be \$1,019.50.

If you have any questions, please contact me at (916) 341-5408 or e-mail at wtoy@waterboards.ca.gov.

Sincerely,

ORIGINAL SIGNED BY:

Whalen Toy
Water Resources Control Engineer
Water Quality Certification & Special Programs Uni

Enclosure: Application for 401 WQC (Addressee only)

cc: Ms. Kimberly D. Bose, Secretary Federal Energy Regulatory Commission Mail Code: PJ-12.1 888 First Street, N.E. Washington, D.C. 20426

> Ms. Alexis Strauss, Director Water Division USEPA, Region 75 Hawthorne Street San Francisco, CA 94105

Department of Fish and Game Bishop Field Office 407 West Line Street, Room 1 Bishop, CA 93514 Mr. David Castanon U.S. Army Corps of Engineers P.O. Box 532711 Los Angeles CA 90053-2325

Mr. Harold Singer Lahontan Regional Water Quality Control Board 14440 Civic Drive, Suite 200 Victorville, CA 92392

bcc: LFG, RK, CKW, JW, JP, TL, JO, SN, Matt Bullock (OCC)

WToy:ds June 27 and June 30, 2008

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STATE OF CALIFORNIA STATE WATER RESOURCES CONTROL BOARD Division of Water Rights

P.O. BOX 2000 SACRAMENTO, CA 95812-2000 901 P ST. SACRAMENTO, CA 95814 . STUDIES 22-4503 DESOURCES

SUPPLEMENTAL	STATEMENT OF WATER DIV	ERSION AND USI	<u> </u>
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RICHARD MOSS	DIV. OF THE RIGHTS SACRAMENTO	5	
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BISHOP, CALIF 93514			PHONE NUMBER: 933-2295
IF NAME/ADDRESS/PHONE	NO. IS WRONG OR MISSI	NG, PLEASE CO	RRECT.
SOURCE: MIDDLE CREEK			
TRIBUTARY TO: HAMMIL VALLEY			
COUNTY: MONO		•	
DIVERSION WITHIN: NW1/4 OF NW1/4	SECTION 08, TO3S, R3	3E, MDB&M.	
NSTRUCTIONS: Please complete Item II or part of your regular water s THIS FORM BY JULY 1, 1991.	ns A.B and C. Item D show supply with reclaimed or p (Additional information	polluted water.	RETURN
each month. If monthly and a known, check the months in whi	nnual use are not	below are:	Gallons Acre-feet Planter Wester (other
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1990 V V V	VVVVV	VV	4
3. Purpose of Use - Specify number	er of acres irrigated, stoc	k watered, per	sons served, etc
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Stockwatering 25 Cows	Str head Sheep 2	mondles	
Domestic 12 People	h		
Other (specify)	Electric		
C. Changes in Method of Diversion previous statement was filed. (No No N	- Describe any changes New pump, enlarged div	in your proj ersion dam, lo	ect since your cation of
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D. If part of the water listed in indicate the annual amounts of	Part A consists of recla- reclaimed or polluted wat	imed or pollut ter in the space	ed water, please below.
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Signature:

, California

GENERAL INFORMATION PERTAINING TO WATER RIGHTS IN CALIFORNIA

There are two principal types of surface water rights in California. They are riparian and appropriative rights.

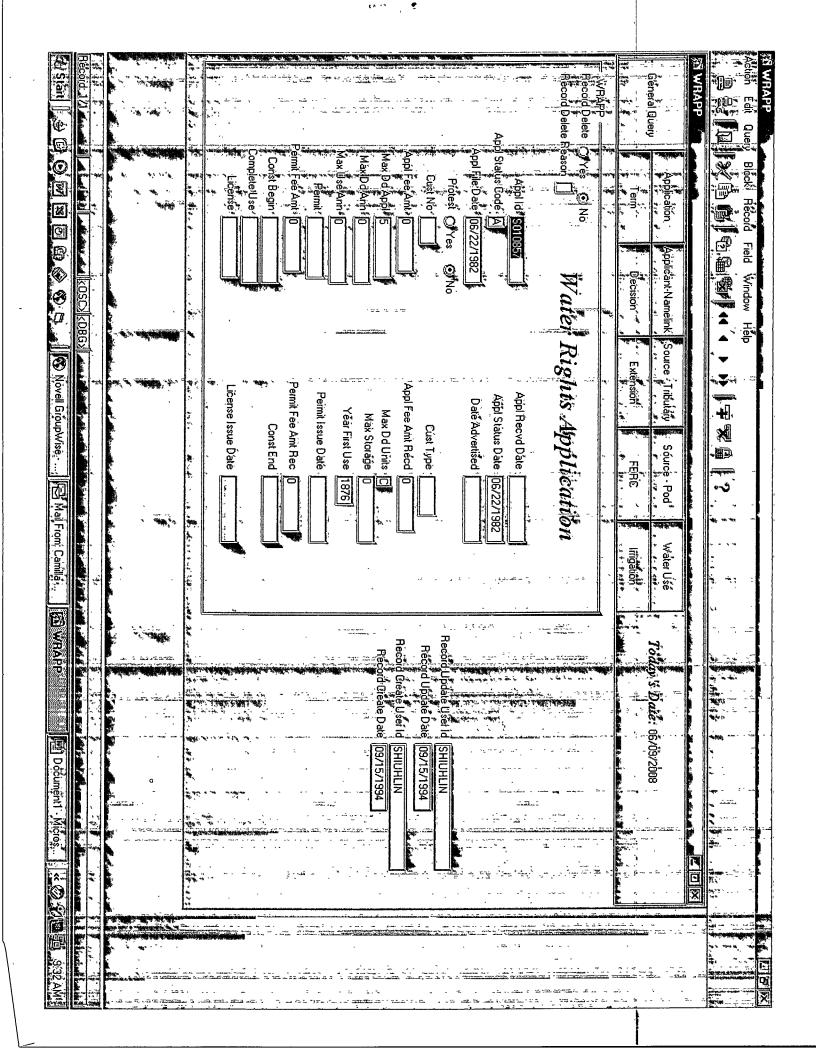
A <u>riparian right</u> enables an owner of land bordering a natural lake or stream to take and use water on his riparian land. Riparian land must be in the same watershed as the water source and must never have been severed from the source of supply by an intervening parcel without reservation of the riparian right to the severed parcel. Generally, a riparian water user must share the water supply with other riparian users. Riparian rights may be used to divert the natural flow of a stream but may not be used to store water for later use or to divert water which originates in a different watershed, or return flows from use of groundwater.

An appropriative right is required for use of water on nonriparian land and for storage of water. Generally, appropriative rights may be exercised only when there is a surplus not needed by riparian water users. Since 1914 new appropriators have been required to obtain a permit and license from the State.

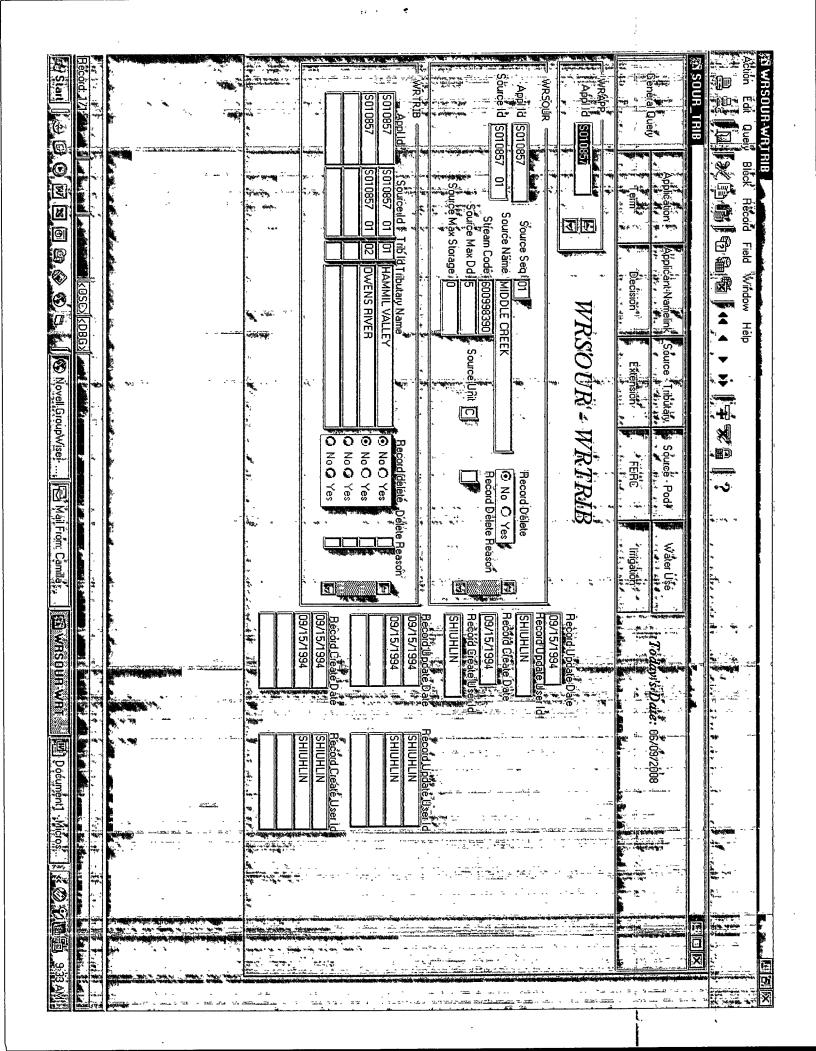
Statements of Water Diversion and Use must be filed by riparian and pre-1914 appropriative water users. The filing of a statement (1) provides a record of water use, (2) enables the State to notify such users if someone proposes a new appropriation upstream from their diversion, and (3) assists the State to determine if additional water is available for future appropriators.

The above discussion is provided for general information. For more specific information concerning water rights, please contact an attorney or write to this office. We have several pamphlets available. They include:

"Statements of Water Diversion and Use"
"Information Pertaining to Water Rights in California"
"Water Rights for Stockponds Constructed Prior to 1969"
"Appropriation of Water in California"



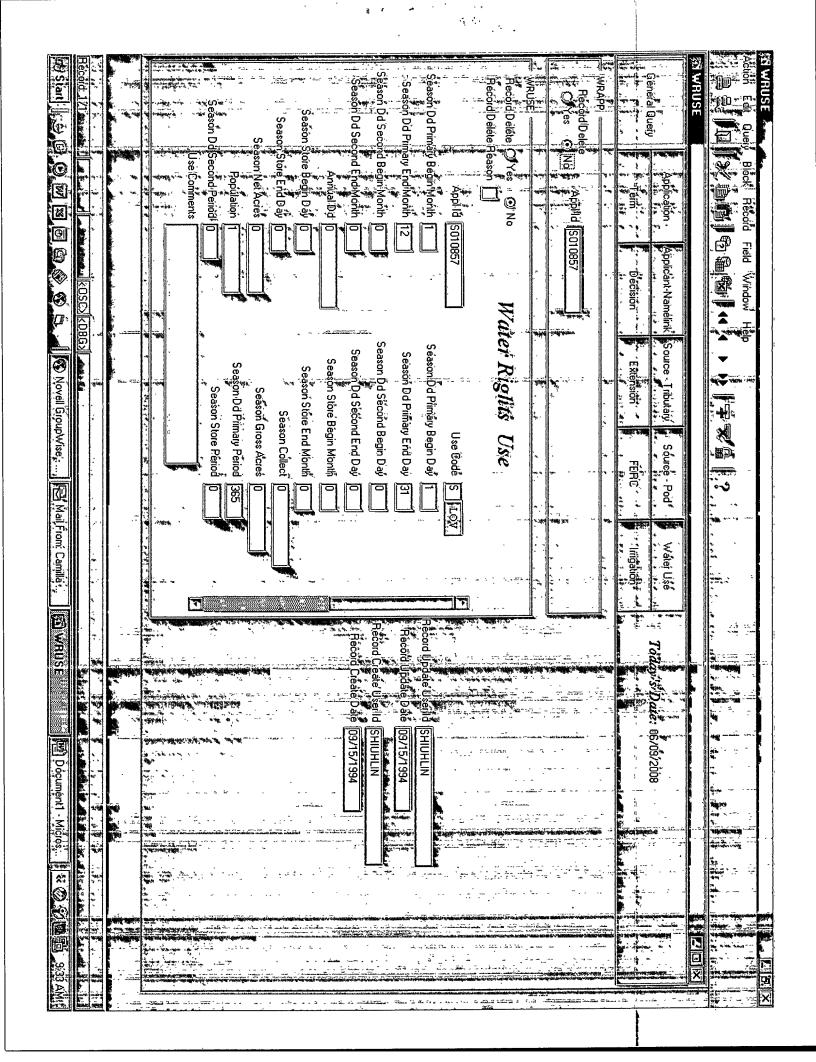
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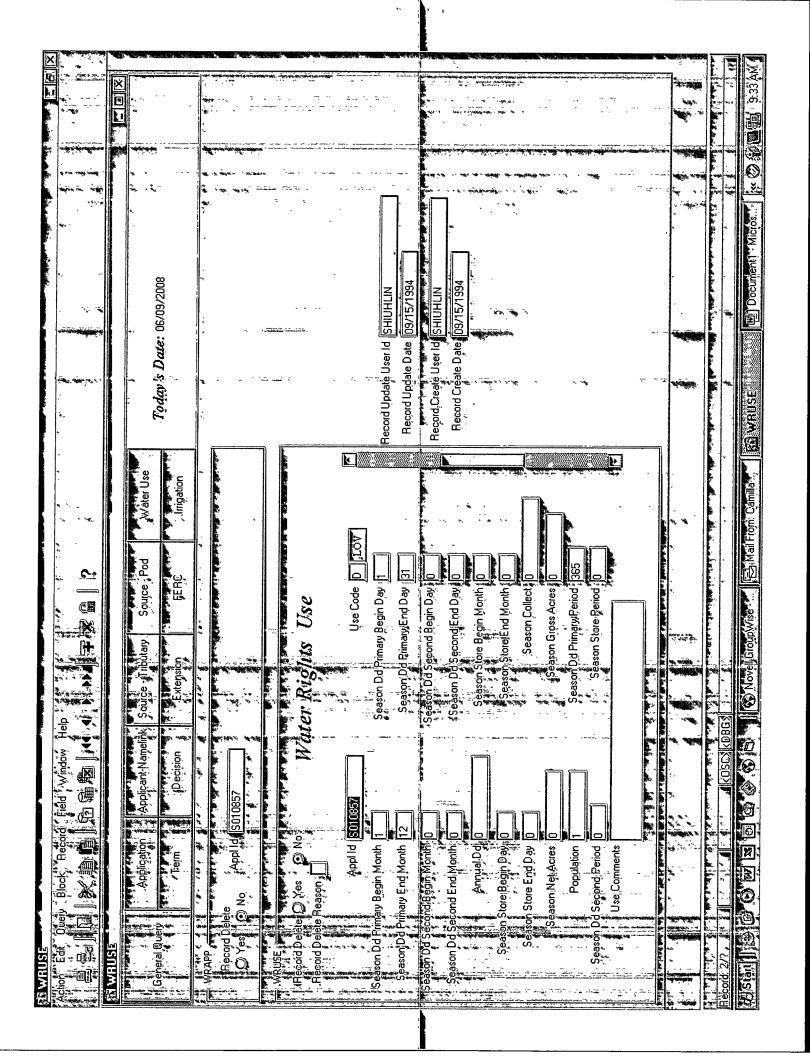


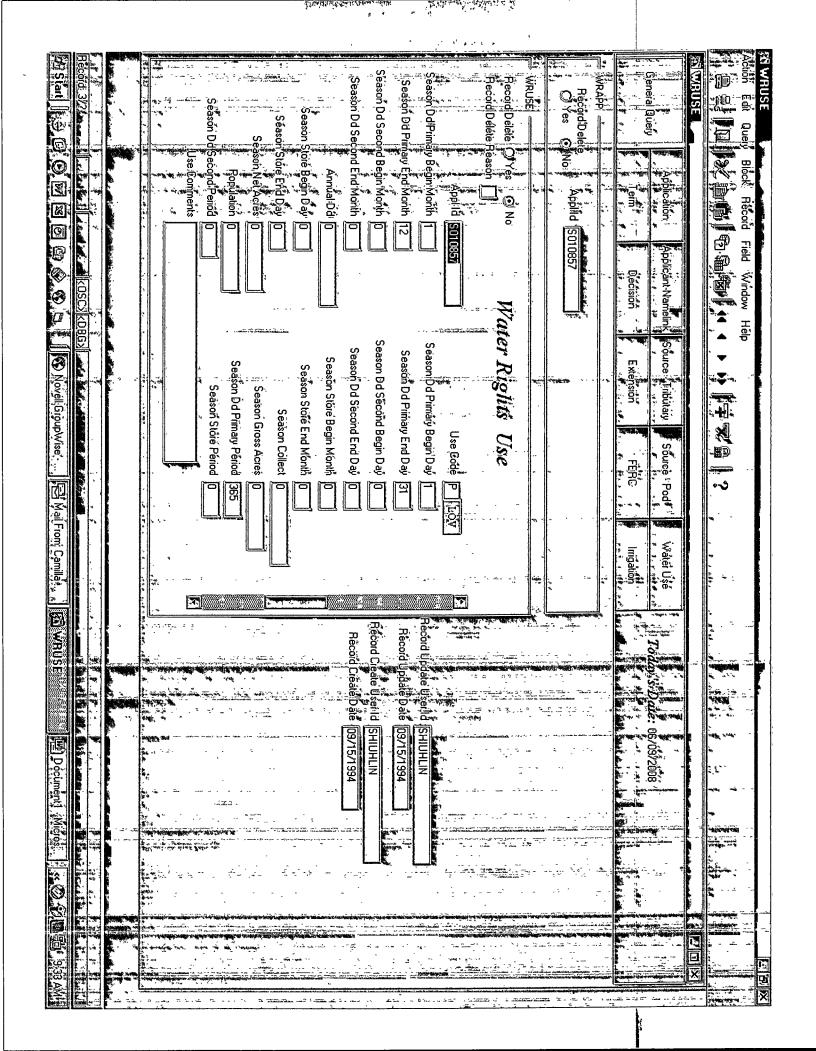
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